Hearing Date and Time: February 7, 2011 at 11:00 a.m. (ET)
Objection Deadline: January 26, 2011

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re DBSB NORTH AMERICA, INC. *et al.*,[1] Debtors.	Chapter 11 Jointly Administered Case No. 09-13061 (REG)

DISH NETWORK CORPORATION'S AND CHESAPEAKE CAPITAL ADVISORS L.L.C.'S RESPONSE TO DEBTORS' MOTION FOR ENTRY OF AN ORDER (I) APPROVING IMMATERIAL MODIFICATIONS TO THE DEBTORS' SECOND AMENDED JOINT PLAN OF REORGANIZATION PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE WITHOUT NEED FOR FURTHER SOLICITATION OF VOTES; AND (II) AMENDING THE CONFIRMATION ORDER TO CONFORM WITH AND APPLY TO SUCH MODIFIED PLAN

DISH Network Corporation ("**DISH**") and Chesapeake Capital Advisors L.L.C. ("**Chesapeake**"),[2] through their undersigned counsel, respectfully submit this response (the

1 The Debtors in these chapter 11 cases are: DBSD North America, Inc.; 3421554 Canada Inc.; DBSD Satellite Management, LLC; DBSD Satellite North America Limited; DBSD Satellite Services G.P.; DBSD Satellite Services Limited; New DBSD Satellite Services G.P.; and SSG UK Limited.

“**Response**”) to the Debtors’ Motion For Entry Of An Order (I) Approving Immaterial Modifications To The Debtors’ Second Amended Joint Plan Of Reorganization Pursuant To Chapter 11 Of The Bankruptcy Code Without Need For Further Solicitation Of Votes; And (II) Amending The Confirmation Order To Conform With And Apply To Such Modified Plan [Docket No. 878] (the “**Immaterial Modification Motion**”).[3]

RESPONSE

The Debtors, through the Immaterial Modification Motion, seek to modify the Plan by (1) removing the equity gift to ICO Global, (2) creating a pool of equity in the reorganized Debtors to satisfy administrative expense claims, and (3) increasing the amount of the exit financing. The Immaterial Modification Motion did not, and the Debtors have not otherwise, disclosed the terms and conditions of the modified exit financing. In addition, the Second Circuit has not yet issued its written opinion explaining its decision to affirm in part and reverse in part the District Court’s decision with respect to the Confirmation Order (the “**Second Circuit Opinion**”), which may require further modifications to the Plan. DISH and Chesapeake, for the reasons discussed below, reserve all rights with respect to the Immaterial Modification Motion in so far as (1) the terms and conditions of the modified exit financing have not been disclosed, (2) whether the proposed modifications will satisfy the Second Circuit Opinion, and (3) the Second Circuit Opinion requires any further modifications to the Plan.

The Plan contemplates, and the Debtors and Ad Hoc Committee have represented to this Court on numerous occasions, that all Senior Noteholders will be entitled to participate in

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2 DISH holds 100% of the outstanding amount of the Debtors’ obligations under that certain Amended and restated Revolving Credit Agreement dated as of April 7, 2008 (as amended, supplemented, or modified from time to time, the “**Prepetition Credit Agreement**”). In addition, DISH’s subsidiary, Chesapeake, holds approximately $111 million of Debtors’ 7.5% Convertible Senior Secured Notes.

3 Capitalized terms used but not defined herein shall have the meaning given to such terms in the Immaterial Modification Motion.

the exit financing in order to protect their recovery from dilution.[4] This Court has also acknowledged that all Senior Noteholders will be entitled to participate in the exit financing.[5] Chesapeake previously committed to providing its pro rata share of the exit financing in order to prevent its recovery as a Senior Noteholder from dilution. Until the terms and conditions of the modified exit financing are disclosed, Chesapeake is unable to determine whether such modifications constitute a material modification of the Plan, and therefore, Chesapeake reserves all rights related to the modified exit financing.

DISH and Chesapeake are also unable to determine whether the proposed modifications satisfy the Second Circuit Opinion because the Second Circuit Opinion has not been issued. Indeed, the Second Circuit Opinion may require further modifications to the Plan that could constitute material modifications. DISH and Chesapeake, therefore, reserve all rights

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4 *See* 9/22/09 Hrg. Tr. (Henkin Cross) 211:3-8 ("Q. And who is supplying that funding [for the new facility]? A. The funding is currently committed by five financial institutions or hedge funds, but as I understand it, it will be offered to all of the holders of the second lien notes as part of a process that will take place subsequent to the confirmation hearing.";

Id. at 211:14-17 ("Q. Okay. To whom will the opportunity to participate in the new credit facility be offered? A. As I understand it, it will be offered to all the holders of the second lien debt.");

Id. at 212:6-9 ("A. I think of it more as akin to a rights offering, that everyone who holds these claims would have a right to participate up to their pro rata portion of the claims that they hold in the second lien notes.");

9/25/09 Hrg. Tr. (Nabholz Cross) 49:23-25 ("Q. Well, you understand, do you not, that the second lien -- the new credit facility is going to be offered to all of the holders of the second lien debt.");

9/25/09 Hrg. Tr. 109:21 – 110:2 ("THE COURT: But you're saying that DISH could count on its ability vis-a-vis its second lien hat to share in the – there's dispute as to whether it's called -- or appropriately called a rights offering, but the ability to invest debt and get equity as part of the new facility? MR. RIEMER: On the same terms as are indicated in the commitment letter.");

9/25/09 Hrg. Tr. (Leblanc to Court) at 189:18-22 ("And, Your Honor, the participation is -- it begins on the page of the term sheet and continues on the last page. And it says that everybody will be entitled -- everybody will be entitled to participate pro rata, up to pro rata.")

5 *See Bench Decision on Confirmation* [Docket No. 479] at 13, fn. 30 ("The ability to participate in the New Credit Facility will be offered to all of the Second Lien Debt holders as part of a process to take place after the confirmation hearing. Presumably DISH, which also bought up Second Lien Debt, would have the ability, if it wished, to participate in the New Credit Facility as well.") (internal citations omitted).

with respect to the Immaterial Modification Motion that relate to, or may be affected by, the Second Circuit Opinion.

NOTICE

DISH and Chesapeake have provided notice of this Response to: (a) the Office of the United States Trustee for the Southern District of New York; (b) counsel to the Committee; (c) counsel to Ad Hoc Committee; (d) the Internal Revenue Service; (e) the Securities and Exchange Commission; and (f) the parties in interest who have formally requested notice by filing a written request for notice, pursuant to Rule 2002 of the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Southern District of New York.

Dated: New York, New York
January 26, 2011

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CERTIFICATE OF SERVICE

Paul S. Hessler hereby certifies that on the 26th day of January, 2011, he caused a true and correct copy of the foregoing in the above-captioned matter to be served on the following via electronic mail or U.S. First Class Mail:

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